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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 1, 22, and 52**

**[FAC 2005-82; FAR Case 2014-013; Item I; Docket 2014-0013,  
Sequence 1]**

**RIN 9000-AM76**

**Federal Acquisition Regulation: Equal Employment and  
Affirmative Action for Veterans and Individuals with  
Disabilities**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement final rules issued by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and affirmative action for veterans and individuals with disabilities.

**DATES:** Effective: **[INSERT DATE OF PUBLICATION IN THE  
FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Loeb,  
Procurement Analyst, at 202-501-0650 for clarification of

content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-82, FAR Case 2014-013.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

DoD, GSA, and NASA published an interim rule in the Federal Register at 79 FR 43575 on July 25, 2014, to implement two DOL final rules that were published in the Federal Register on September 24, 2013, at 78 FR 58614 and at 78 FR 58682 as follows:

- "Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Disabled Veterans, Recently Separated Veterans, Active Duty Wartime or Campaign Badge Veterans, and Armed Forces Service Medal Veterans," which amended DOL regulations at 41 CFR parts 60-250 and 60-300 (78 FR 58614).

- "Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities," which amended DOL regulations at 41 CFR part 60-741 (78 FR 58682).

##### **II. Discussion and Analysis**

No public comments were submitted, and no changes have been made to the interim rule.

##### **III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Both rules issued by the DOL were determined to be economically significant under E.O. 12866, and major rules under 5 U.S.C. 804. The Regulatory Impact Analysis for these rules was published in the Federal Register on September 24, 2013 at 78 FR 59643 and at 78 FR 58714. The FAR rule adds no new information collections, recordkeeping, or other compliance burdens. The FAR rule cites to the DOL Office of Management and Budget (OMB) Control numbers 1250-0004 and 1250-0005 for OMB approval under the Paperwork Reduction Act for any information collection requirements associated with revised FAR 52.222-35 (Equal Opportunity for Veterans) and 52.222-36 (Equal Opportunity for Workers with

Disabilities). The FAR clauses, to be incorporated in solicitations and contracts in full text, include the required summary statement (paragraph (b) and (a) of each of the FAR clauses, respectively) and then reference to the DOL clauses. There is no economic impact arising from the FAR rule, since the FAR rule only informs the contractors of the requirements of the DOL rules. Further, each DOL rule states that "By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract..." (41 CFR 60-300.5(e) and 60-741.5(e)). The FAR is not imposing requirements; it is incorporating the requirements into contracts to inform contractors.

#### **IV. Regulatory Flexibility Act**

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 604, et seq. The FRFA is summarized as follows:

This final rule is being issued to implement changes to 41 CFR 60-25, 60-300, and 60-741, as published in the Federal Register on September 24, 2013 (78 FR 58614 and 58682), by the Office of Federal Contract Compliance Programs of the Department of Labor (DOL). The DOL rules revise the current regulations implementing 38 U.S.C. 4211 and 4212, and the nondiscrimination and affirmative action regulations of section 503 of the Rehabilitation Act of 1973, as amended. The DOL rules add requirements on mandatory job listings, data collection, and establishing hiring benchmarks.

There were no public comments submitted in response to the initial regulatory flexibility analysis.

With regard to equal opportunity for veterans, DOL estimated that the approximate number of small entities that would be subject to its rule would be 20,490 Federal contractors with between 50 and 500 employees (approximately 44% of Federal contractors may be impacted).

With regard to equal opportunity for individuals with disabilities, DOL estimated that its rule impacts 20,490 Federal contractors with between 50 and 500 employees (approximately 44% of Federal contractors may be impacted).

This FAR rule does not add any new reporting, recordkeeping, or other compliance burdens. The FAR rule makes contracting officers and contractors aware of the DOL requirements.

DoD, GSA, and NASA are not aware of any significant alternatives which would accomplish the stated objectives of implementing the DOL final rules, while minimizing impact on small entities. DoD, GSA, and NASA do not have the flexibility of changing the DOL rules, which have been published for public comment and are in effect as final rules. There is no significant impact on small entities imposed by the FAR rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

## **V. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved for the DOL regulations under OMB Control Numbers 1250-0004, OFCCP Recordkeeping and Reporting Requirements- 38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; 1250-0005, OFCCP Recordkeeping and Reporting Requirements- Section 503 of the Rehabilitation Act of 1973, as amended,

29 U.S.C. 703; and 1293-0005, Federal Contractor Veterans'  
Employment Report, VETS-100/VETS-100A.

**List of Subjects in 48 CFR Parts 1, 22, and 52**

Government procurement.

Dated: April 30, 2015.

William Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

### **Interim Rule Adopted as Final Without Change**

Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the Federal Register at 79 FR 43575 on July 25, 2014, is adopted as a final rule without change.

**[BILLING CODE 6820-EP]**

**[FR Doc. 2015-11028 Filed: 5/6/2015 08:45 am; Publication Date: 5/7/2015]**